

Prior section 5002 was renumbered section 8102 of this title.

Another prior section 5002, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1252; Pub. L. 94-581, title II, §210(e)(2), Oct. 21, 1976, 90 Stat. 2865, relating to the construction and repair of hospitals, domiciliaries, and outpatient dispensary facilities, was omitted in the general revision of subchapter I of chapter 81 of this title by Pub. L. 96-22. See section 8103 of this title.

Prior section 5003 was renumbered section 8103 of this title.

Another prior section 5003, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1252, relating to the use by the Veterans' Administration of Armed Forces' facilities, was omitted in the general revision of subchapter I of chapter 81 of this title by Pub. L. 96-22. See section 8111 of this title.

Prior section 5004 was renumbered section 8104 of this title.

Another prior section 5004, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1252; Pub. L. 89-785, title II, §201(a), Nov. 7, 1966, 80 Stat. 1372; Pub. L. 94-581, title II, §210(e)(3), Oct. 21, 1976, 90 Stat. 2865, relating to garage and parking facilities, was omitted in the general revision of subchapter I of chapter 81 of this title by Pub. L. 96-22. See section 8109 of this title.

Prior section 5005 was renumbered section 8105 of this title.

Another prior section 5005, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1252; Pub. L. 94-581, title II, §210(e)(4), Oct. 21, 1976, 90 Stat. 2865, relating to the acceptance by the President of buildings, structures, equipment, or grounds from States or other political subdivisions or from persons, was omitted in the general revision of subchapter I of chapter 81 of this title by Pub. L. 96-22. See section 8115 of this title.

Prior section 5006 was renumbered section 8106 of this title.

Another prior section 5006, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1253, relating to property formerly owned by the National Home for Disabled Volunteer Soldiers, was omitted in the general revision of subchapter I of chapter 81 of this title by Pub. L. 96-22. See section 8113 of this title.

Prior section 5007 was renumbered section 8107 of this title.

Another prior section 5007, added Pub. L. 93-82, title III, §302(1), Aug. 2, 1973, 87 Stat. 195, and amended Pub. L. 94-581, title II, §210(e)(5), Oct. 21, 1976, 90 Stat. 2865, relating to partial relinquishment of legislative jurisdiction, was omitted in the general revision of subchapter I of chapter 81 of this title by Pub. L. 96-22. See section 8112 of this title.

Prior sections 5008 to 5011 were renumbered sections 8108 to 8111 of this title, respectively.

Another prior section 5011 was renumbered section 5021 of this title.

Prior sections 5011A and 5012 were renumbered sections 8111A and 8112 of this title, respectively.

Another prior section 5012 was renumbered section 5022 of this title.

Prior section 5013 was renumbered section 8113 of this title.

Another prior section 5013 was renumbered section 5023 of this title.

Prior section 5014 was renumbered section 8114 of this title.

Another prior section 5014 was renumbered section 5024 of this title.

Prior sections 5015, 5016, 5021 to 5025, 5031 to 5037, and 5051 to 5056 were renumbered sections 8115, 8116, 8121 to 8125, 8131 to 8137, and 8151 to 8156 of this title, respectively.

Prior section 5057, added Pub. L. 89-785, title II, §203, Nov. 7, 1966, 80 Stat. 1376, directed Administrator to submit to Congress not more than sixty days after end of each fiscal year separate reports on activities carried out under sections 5053 and 5054 of this title, prior to repeal by Pub. L. 99-576, title II, §231(c)(2)(A), Oct. 28, 1986, 100 Stat. 3264.

Prior sections 5070, 5071 to 5074, 5081 to 5083, 5091 to 5093, and 5096 were renumbered sections 8201, 8211 to 8214, 8221 to 8223, 8231 to 8233, and 8241 of this title, respectively.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103-353, set out as a note under section 4301 of this title.

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

Chap.		Sec.
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AMENDMENTS

1991—Pub. L. 102-40, title IV, §402(c)(2), May 7, 1991, 105 Stat. 239, substituted “5101” for “3001” in item for chapter 51, “5301” for “3101” in item for chapter 53, “5501” for “3201” in item for chapter 55, “5701” for “3301” in item for chapter 57, “5901” for “3401” in item for chapter 59, and “6101” for “3501” in item for chapter 61.

1988—Pub. L. 100-687, div. A, title I, §103(c)(1), Nov. 18, 1988, 102 Stat. 4107, substituted “Claims” for “Applications” in item for chapter 51.

CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS

SUBCHAPTER I—CLAIMS

Sec.	
5101.	Claims and forms.
5102.	Application forms furnished upon request.
5103.	Incomplete applications.
5104.	Decisions and notices of decisions.
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5106.	Furnishing of information by other agencies.
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SUBCHAPTER II—EFFECTIVE DATES

5110.	Effective dates of awards.
5111.	Commencement of period of payment.
5112.	Effective dates of reductions and discontinuances.
5113.	Effective dates of educational benefits.

SUBCHAPTER III—PAYMENT OF BENEFITS

5120.	Payment of benefits; delivery.
5121.	Payment of certain accrued benefits upon death of beneficiary. ¹
5122.	Cancellation of checks mailed to deceased payees.
5123.	Rounding down of pension rates.
5124.	Acceptance of claimant's statement as proof of relationship.
5125.	Acceptance of reports of private physician examinations.

AMENDMENTS

1994—Pub. L. 103-446, title III, §301(c), Nov. 2, 1994, 108 Stat. 4658, added items 5124 and 5125.

1991—Pub. L. 102-40, title IV, §402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 3001 to 3023 as 5101 to 5123, respectively.

¹ So in original. Does not conform to section catchline.

1989—Pub. L. 101-237, title I, §115(a)(2), Dec. 18, 1989, 103 Stat. 2066, added item 3004.

1988—Pub. L. 100-687, div. A, title I, §103(a)(2), (c)(2), (3), Nov. 18, 1988, 102 Stat. 4107, 4108, substituted "CLAIMS" for "APPLICATIONS" in heading for chapter and in item for subchapter I and added items 3007, 3008, and 3009.

1982—Pub. L. 97-253, title IV, §§401(a)(2), 403(a)(2), Sept. 8, 1982, 96 Stat. 802, added items 3011 and 3023, respectively.

1977—Pub. L. 95-117, title IV, §402(b)(2), Oct. 3, 1977, 91 Stat. 1066, struck out "by check" after "benefit" in item 3020.

1976—Pub. L. 94-432, title IV, §403(1), Sept. 30, 1976, 90 Stat. 1372, added item 3006.

1962—Pub. L. 87-825, §5(b), Oct. 15, 1962, 76 Stat. 950, struck out items 3004 and 3011.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1315 of this title.

SUBCHAPTER I—CLAIMS

AMENDMENTS

1988—Pub. L. 100-687, div. A, title I, §103(c)(4), Nov. 18, 1988, 102 Stat. 4108, substituted "CLAIMS" for "APPLICATIONS" in heading for subchapter I.

§ 5101. Claims and forms

(a) A specific claim in the form prescribed by the Secretary (or jointly with the Secretary of Health and Human Services, as prescribed by section 5105 of this title) must be filed in order for benefits to be paid or furnished to any individual under the laws administered by the Secretary.

(b)(1) A claim by a surviving spouse or child for compensation or dependency and indemnity compensation shall also be considered to be a claim for death pension and accrued benefits, and a claim by a surviving spouse or child for death pension shall be considered to be a claim for death compensation (or dependency and indemnity compensation) and accrued benefits.

(2) A claim by a parent for compensation or dependency and indemnity compensation shall also be considered to be a claim for accrued benefits.

(c)(1) Any person who applies for or is in receipt of any compensation or pension benefit under laws administered by the Secretary shall, if requested by the Secretary, furnish the Secretary with the social security number of such person and the social security number of any dependent or beneficiary on whose behalf, or based upon whom, such person applies for or is in receipt of such benefit. A person is not required to furnish the Secretary with a social security number for any person to whom a social security number has not been assigned.

(2) The Secretary shall deny the application of or terminate the payment of compensation or pension to a person who fails to furnish the Secretary with a social security number required to be furnished pursuant to paragraph (1) of this subsection. The Secretary may thereafter reconsider the application or reinstate payment of compensation or pension, as the case may be, if such person furnishes the Secretary with such social security number.

(3) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1225, §3001; Pub. L. 97-295, §4(95)(A), Oct. 12, 1982, 96 Stat. 1313; Pub. L. 99-576, title VII, §701(61), Oct. 28, 1986, 100 Stat. 3296; Pub. L. 101-508, title VIII, §8053(a), Nov. 5, 1990, 104 Stat. 1388-352; renumbered §5101 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, §4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

PRIOR PROVISIONS

Prior section 5101 was renumbered section 8301 of this title.

AMENDMENTS

1991—Pub. L. 102-40, §402(b)(1), renumbered section 3001 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" after "prescribed by the".

Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

Pub. L. 102-40, §402(d)(1), substituted "5105" for "3005".

1990—Subsec. (c). Pub. L. 101-508 added subsec. (c).

1986—Subsec. (b)(1). Pub. L. 99-576 substituted "surviving spouse or" for "widow or" in two places.

1982—Subsec. (a). Pub. L. 97-295 substituted "Health and Human Services" for "Health, Education, and Welfare".

EXPEDITED TREATMENT OF REMANDED CLAIMS

Pub. L. 103-446, title III, §302, Nov. 2, 1994, 108 Stat. 4658, provided that: "The Secretary of Veterans Affairs shall take such actions as may be necessary to provide for the expeditious treatment, by the Board of Veterans' Appeals and by the regional offices of the Veterans Benefits Administration, of any claim that has been remanded by the Board of Veterans' Appeals or by the United States Court of Veterans Appeals for additional development or other appropriate action."

VETERANS' CLAIMS ADJUDICATION COMMISSION

Pub. L. 103-446, title IV, Nov. 2, 1994, 108 Stat. 4659, provided that:

"SEC. 401. ESTABLISHMENT OF COMMISSION.

"(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a commission to be known as the Veterans' Claims Adjudication Commission (hereinafter in this title referred to as the 'commission').

"(b) MEMBERSHIP.—(1) The commission shall be composed of nine members, appointed by the Secretary of Veterans Affairs as follows:

"(A) One member shall be appointed from among former officials of the Department of Veterans Affairs (or the Veterans' Administration).

"(B) Two members shall be appointed from among individuals in the private sector who have expertise in the adjudication of claims relating to insurance or similar benefits.

"(C) Two members shall be appointed from among individuals employed in the Federal Government (other than the Department of Veterans Affairs) who have expertise in the adjudication of claims for benefits under Federal law other than under laws administered by the Secretary of Veterans Affairs.

"(D) Two members shall be appointed from among individuals recommended to the Secretary by representatives of veterans service organizations.

"(E) One member shall be appointed based on a recommendation of the American Bar Association or a similar private organization from among individuals who have expertise in the field of administrative law.

"(F) One member shall be appointed from among current officials of the Department of Veterans Affairs.

“(2) The appointment of members of the commission under this subsection shall be made not later than February 1, 1995.

“(c) PERIOD OF APPOINTMENT; VACANCIES.—Members of the commission shall be appointed for the life of the commission. A vacancy in the commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

“(d) INITIAL MEETING.—The commission shall hold its first meeting not later than 30 days after the date on which all members of the commission have been appointed.

“(e) MEETINGS.—The commission shall meet at the call of the chairman.

“(f) QUORUM.—A majority of the members of the commission shall constitute a quorum, but a lesser number may hold hearings.

“(g) CHAIRMAN.—The Secretary shall designate a member of the commission (other than the commission member who is a current official of the Department of Veterans Affairs) to be chairman of the commission.

“SEC. 402. DUTIES OF THE COMMISSION.

“(a) IN GENERAL.—The commission shall carry out a study of the Department of Veterans Affairs system for the disposition of claims for veterans benefits.

“(b) PURPOSE OF STUDY.—The purpose of the study is to evaluate the Department of Veterans Affairs system for the disposition of claims for veterans benefits in order to determine the following:

“(1) The efficiency of current processes and procedures under the system for the adjudication, resolution, review, and final disposition of claims for veterans benefits, including the effect of judicial review on the system, and means of increasing the efficiency of the system.

“(2) Means of reducing the number of claims under the system for which final disposition is pending.

“(3) Means of enhancing the ability of the Department of Veterans Affairs to achieve final determination regarding claims under the system in a prompt and appropriate manner.

“(c) CONTENTS OF STUDY.—The study to be carried out by the commission under this section is a comprehensive evaluation and assessment of the Department of Veterans Affairs system for the disposition of claims for veterans benefits (as defined in section 406) and of the system for the delivery of such benefits, together with any related issues that the commission determines are relevant to the study. The study shall include an evaluation and assessment of the following:

“(1) The preparation and submission of claims by veterans under the system.

“(2) The processes and procedures under the system for the disposition of claims, including—

“(A) the scope and nature of the review undertaken with respect to a claim at each stage in the claims disposition process, including the role of hearings throughout the process;

“(B) the number, Federal employment grade, and experience and qualifications required of the persons undertaking such review at each such stage;

“(C) opportunities for the submittal of new evidence; and

“(D) the availability of alternative means of completing claims.

“(3) The effect on the system of the participation of attorneys, members of veterans service organizations, and other advocates on behalf of veterans.

“(4) The effect on the system of actions taken by the Secretary to modernize the information management system of the Department, including the use of electronic data management systems.

“(5) The effect on the system of any work performance standards used by the Secretary at regional offices of the Department and at the Board of Veterans' Appeals.

“(6) The extent of the implementation in the system of the recommendations of the Blue Ribbon Panel on Claims Processing submitted to the Com-

mittees on Veterans' Affairs of the Senate and House of Representatives on December 2, 1993, and the effect of such implementation on the system.

“(7) The effectiveness in improving the system of any pilot programs carried out by the Secretary at regional offices of the Department and of efforts by the Secretary to implement such programs throughout the system.

“(8) The effectiveness of the quality control practices and quality assurance practices under the system in achieving the goals of such practices.

“(d) COOPERATION OF SECRETARY.—Upon the request of the chairman of the commission, the Secretary shall, within 30 days of such request, submit to the commission, and to the Committees on Veterans' Affairs of the Senate and House of Representatives, such information as the chairman shall determine is necessary for the commission to carry out the study required under this section.

“(e) REPORTS.—(1) Not later than one year after the date of the enactment of this Act [Nov. 2, 1994], the commission shall submit to the Secretary and to the Committees on Veterans' Affairs of the Senate and House of Representatives a preliminary report on the study required under subsection (c). The report shall contain the preliminary findings and conclusions of the commission with respect to the evaluation and assessment required under the study.

“(2) Not later than 18 months after such date, the commission shall submit to the Secretary and to such committees a report on such study. The report shall include the following:

“(A) The findings and conclusions of the commission, including its findings and conclusions with respect to the matters referred to in subsection (c).

“(B) The recommendations of the commission for means of improving the Department of Veterans Affairs system for the disposition of claims for veterans benefits.

“(C) Such other information and recommendations with respect to the system as the commission considers appropriate.

“SEC. 403. POWERS OF THE COMMISSION.

“(a) HEARINGS.—The commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the commission considers advisable to carry out the purposes of this title.

“(b) INFORMATION FROM FEDERAL AGENCIES.—In addition to the information referred to in section 402(d), the commission may secure directly from any Federal department or agency such information as the commission considers necessary to carry out the provisions of this title. Upon request of the chairman of the commission, the head of such department or agency shall furnish such information to the commission.

“(c) POSTAL SERVICES.—The commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

“(d) GIFTS.—The commission may accept, use, and dispose of gifts or donations of services or property.

“SEC. 404. COMMISSION PERSONNEL MATTERS.

“(a) COMPENSATION OF MEMBERS.—Each member of the commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the commission. All members of the commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

“(b) TRAVEL EXPENSES.—The members of the commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for em-

ployees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.

“(c) STAFF.—(1) The chairman of the commission may, without regard to the civil service laws and regulations, appoint an executive director and such other personnel as may be necessary to enable the commission to perform its duties. The appointment of an executive director shall be subject to approval by the commission.

“(2) The chairman of the commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

“(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of the department or agency to the commission to assist it in carrying out its duties.

“(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

“SEC. 405. TERMINATION OF THE COMMISSION.

“The commission shall terminate 90 days after the date on which the commission submits its report under section 402(e)(2).

“SEC. 406. DEFINITIONS.

“For the purposes of this title:

“(1) The term ‘Department of Veterans Affairs system for the disposition of claims for veterans benefits’ means the processes and procedures of the Department of Veterans Affairs for the adjudication, resolution, review, and final disposition of claims for benefits under the laws administered by the Secretary.

“(2) The term ‘Secretary’ means the Secretary of Veterans Affairs.

“(3) The term ‘veterans service organizations’ means any organization approved by the Secretary under section 5902(a) of title 38, United States Code.

“SEC. 407. FUNDING.

“(a) FISCAL YEAR 1995.—From amounts appropriated to the Department of Veterans Affairs for fiscal year 1995 for the payment of compensation and pension, the amount of \$400,000 is hereby made available for the activities of the commission under this title.

“(b) AVAILABILITY.—Any sums appropriated to the commission shall remain available until expended.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5110 of this title.

§ 5102. Application forms furnished upon request

Upon request made in person or in writing by any person claiming or applying for benefits under the laws administered by the Secretary, the Secretary shall furnish such person, free of all expense, all such printed instructions and forms as may be necessary in establishing such claim.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1225, §3002; renumbered §5102, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

PRIOR PROVISIONS

Prior section 5102 was renumbered section 8302 of this title.

AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3002 of this title as this section.

Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” before “shall”.

Pub. L. 102-83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration”.

§ 5103. Incomplete applications

(a) If a claimant’s application for benefits under the laws administered by the Secretary is incomplete, the Secretary shall notify the claimant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no benefits may be paid or furnished by reason of such application.

(b) This section shall not apply to any application or claim for Government life insurance benefits.

(c) Benefits under laws administered by the Secretary may not be denied an applicant on the basis that the applicant does not have a mailing address.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1225, §3003; Pub. L. 99-570, title XI, §11007(a)(1), Oct. 27, 1986, 100 Stat. 3207-170; renumbered §5103, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

PRIOR PROVISIONS

Prior section 5103 was renumbered section 8303 of this title.

AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3003 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” before “shall”.

Pub. L. 102-83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration”.

Subsec. (c). Pub. L. 102-83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration”.

1986—Subsec. (c). Pub. L. 99-570 added subsec. (c).

EFFECTIVE DATE OF 1986 AMENDMENT

Section 11007(b)(1) of Pub. L. 99-570 provided that: “The amendment made by subsection (a)(1) [amending this section] shall take effect on the date of enactment of this Act [Oct. 27, 1986].”

§ 5104. Decisions and notices of decisions

(a) In the case of a decision by the Secretary under section 511 of this title affecting the provision of benefits to a claimant, the Secretary shall, on a timely basis, provide to the claimant (and to the claimant’s representative) notice of such decision. The notice shall include an explanation of the procedure for obtaining review of the decision.

(b) In any case where the Secretary denies a benefit sought, the notice required by subsection (a) shall also include (1) a statement of the reasons for the decision, and (2) a summary of the evidence considered by the Secretary.

(Added Pub. L. 101-237, title I, §115(a)(1), Dec. 18, 1989, 103 Stat. 2065, §3004; renumbered §5104, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102-54, §14(d)(1), June 13, 1991, 105 Stat. 285; Pub. L. 103-446, title XII, §1201(d)(15), Nov. 2, 1994, 108 Stat. 4684.)

PRIOR PROVISIONS

Prior section 5104 was renumbered section 8304 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-446 substituted “section 511” for “section 211(a)”.

1991—Pub. L. 102-40 renumbered section 3004 of this title as this section.

Pub. L. 102-54 amended section as in effect immediately before enactment of Pub. L. 102-40 by striking out “(1)” after “(a)” and substituting “(b)” for “(2)”, “subsection (a)” for “paragraph (1) of this subsection”, “(1)” for “(A)”, and “(2)” for “(B)”.

EFFECTIVE DATE

Section 115(b) of Pub. L. 101-237 provided that: “Section 3004 [now 5104] of title 38, United States Code, as added by subsection (a), shall apply with respect to decisions by the Secretary of Veterans Affairs made after January 31, 1990.”

§ 5105. Joint applications for social security and dependency and indemnity compensation

(a) The Secretary and the Commissioner of Social Security shall jointly prescribe forms for use by survivors of members and former members of the uniformed services in filing application for benefits under chapter 13 of this title and title II of the Social Security Act (42 U.S.C. 401 et seq.). Each such form shall request information sufficient to constitute an application for benefits under both chapter 13 of this title and title II of the Social Security Act (42 U.S.C. 401 et seq.).

(b) When an application on such a form is filed with either the Secretary or the Commissioner of Social Security, it shall be deemed to be an application for benefits under both chapter 13 of this title and title II of the Social Security Act (42 U.S.C. 401 et seq.). A copy of each such application filed with either the Secretary or the Commissioner, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Secretary or the Commissioner with such application, and which may be needed by the other official in connection therewith, shall be transmitted by the Secretary or the Commissioner receiving the application to the other official. The preceding sentence shall not prevent the Secretary and the Commissioner of Social Security from requesting the applicant, or any other individual, to furnish such additional information as may be necessary for purposes of chapter 13 of this title and title II of the Social Security Act (42 U.S.C. 401 et seq.), respectively.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1226, §3005; Pub. L. 97-295, §4(95)(A), Oct. 12, 1982, 96 Stat. 1313; Pub. L. 98-160, title VII, §702(16), Nov. 21, 1983, 97 Stat. 1010; renumbered §5105, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(b)(9), Aug. 6, 1991, 105 Stat. 405; Pub. L. 103-296, title I, §108(k), Aug. 15, 1994, 108 Stat. 1488.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

Prior section 5105 was renumbered section 8305 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-296, §108(k)(1), substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”.

Subsec. (b). Pub. L. 103-296, §108(k), substituted “Commissioner of Social Security” for “Secretary of Health and Human Services” in two places and amended second sentence generally. Prior to amendment, second sentence read as follows: “A copy of each such application filed with either Secretary, together with any additional information and supporting documents (or certifications thereof) which may have been received by that Secretary with such application, and which may be needed by the other Secretary in connection therewith, shall be transmitted by the Secretary receiving the application to the other Secretary.”

1991—Pub. L. 102-40, §402(b)(1), renumbered section 3005 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(b)(9)(A)–(C), substituted “(a) The Secretary” for “The Administrator” at the beginning of text and substituted “401 et seq.” for “401 et seq.”; and in second sentence.

Subsec. (b). Pub. L. 102-83, §4(b)(9)(D)–(J), substituted “(b) When an application on such a form is filed with either the Secretary” for “when an application on such form has been filed with either the Administrator”, “filed with either Secretary” for “filed with the Administrator”, “received by that Secretary” for “received by the Administrator”, “needed by the other Secretary” for “needed by the Secretary”, and “by the Secretary receiving the application to the other Secretary.” for “by the Administrator to the Secretary.”, struck out “and a copy of each such application filed with the Secretary, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Secretary with such form, and which may be needed by the Administrator in connection therewith, shall be transmitted by the Secretary to the Administrator.” before “The preceding sentence”, and substituted “the Secretary and the Secretary of Health and Human Services” for “the Secretary and the Administrator”.

1983—Pub. L. 98-160 substituted “title II of the Social Security Act (42 U.S.C. 401 et seq.)” for “subchapter II of chapter 7 of title 42” wherever appearing.

1982—Pub. L. 97-295 substituted “Health and Human Services” for “Health, Education, and Welfare” wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5101 of this title; title 42 section 402.

§ 5106. Furnishing of information by other agencies

The head of any Federal department or agency shall provide such information to the Secretary as the Secretary may request for purposes of determining eligibility for or amount of benefits,

or verifying other information with respect thereto.

(Added Pub. L. 94-432, title IV, § 403(2), Sept. 30, 1976, 90 Stat. 1372, § 3006; amended Pub. L. 99-576, title VII, § 701(62), Oct. 28, 1986, 100 Stat. 3296; renumbered § 5106, Pub. L. 102-40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3006 of this title as this section.

Pub. L. 102-83 substituted “Secretary” for “Administrator” in two places.

1986—Pub. L. 99-576 substituted “the Administrator” for “he” before “may request”.

EFFECTIVE DATE

Section effective Sept. 30, 1976, see section 405(a) of Pub. L. 94-432, set out as an Effective Date of 1976 Amendment note under section 1521 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5107 of this title.

§ 5107. Burden of proof; benefit of the doubt

(a) Except when otherwise provided by the Secretary in accordance with the provisions of this title, a person who submits a claim for benefits under a law administered by the Secretary shall have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded. The Secretary shall assist such a claimant in developing the facts pertinent to the claim. Such assistance shall include requesting information as described in section 5106 of this title.

(b) When, after consideration of all evidence and material of record in a case before the Department with respect to benefits under laws administered by the Secretary, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of the matter, the benefit of the doubt in resolving each such issue shall be given to the claimant. Nothing in this subsection shall be construed as shifting from the claimant to the Secretary the burden specified in subsection (a) of this section.

(Added Pub. L. 100-687, div. A, title I, § 103(a)(1), Nov. 18, 1988, 102 Stat. 4106, § 3007; renumbered § 5107 and amended Pub. L. 102-40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, § 4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

AMENDMENTS

1991—Pub. L. 102-40, § 402(b)(1), renumbered section 3007 of this title as this section.

Subsec. (a). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted “Secretary” for “Administrator” in two places.

Pub. L. 102-83, § 4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration”.

Pub. L. 102-40, § 402(d)(1), substituted “5106” for “3006”.

Subsec. (b). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted “Secretary” for “Administrator” before “the burden”.

Pub. L. 102-83, § 4(a)(3), (4), substituted “Department” for “Veterans’ Administration”.

Pub. L. 102-83, § 4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration”.

EFFECTIVE DATE

Section effective Sept. 1, 1989, see section 401(a) of Pub. L. 100-687, set out as a note under section 7251 of this title.

§ 5108. Reopening disallowed claims

If new and material evidence is presented or secured with respect to a claim which has been disallowed, the Secretary shall reopen the claim and review the former disposition of the claim.

(Added Pub. L. 100-687, div. A, title I, § 103(a)(1), Nov. 18, 1988, 102 Stat. 4107, § 3008; renumbered § 5108, Pub. L. 102-40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3008 of this title as this section.

Pub. L. 102-83 substituted “Secretary” for “Administrator”.

EFFECTIVE DATE

Section effective Sept. 1, 1989, see section 401(a) of Pub. L. 100-687, set out as a note under section 7251 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7104 of this title.

§ 5109. Independent medical opinions

(a) When, in the judgment of the Secretary, expert medical opinion, in addition to that available within the Department, is warranted by the medical complexity or controversy involved in a case being considered by the Department, the Secretary may secure an advisory medical opinion from one or more independent medical experts who are not employees of the Department.

(b) The Secretary shall make necessary arrangements with recognized medical schools, universities, or clinics to furnish such advisory medical opinions. Any such arrangement shall provide that the actual selection of the expert or experts to give the advisory opinion in an individual case shall be made by an appropriate official of such institution.

(c) The Secretary shall furnish a claimant with notice that an advisory medical opinion has been requested under this section with respect to the claimant’s case and shall furnish the claimant with a copy of such opinion when it is received by the Secretary.

(Added Pub. L. 100-687, div. A, title I, § 103(a)(1), Nov. 18, 1988, 102 Stat. 4107, § 3009; renumbered § 5109, Pub. L. 102-40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3009 of this title as this section.

Subsec. (a). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted “Secretary” for “Administrator” in two places.

Pub. L. 102-83, § 4(a)(3), (4), substituted “Department” for “Veterans’ Administration” wherever appearing.

Subsecs. (b), (c). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted “Secretary” for “Administrator” wherever appearing.

EFFECTIVE DATE

Section effective Sept. 1, 1989, see section 401(a) of Pub. L. 100-687, set out as a note under section 7251 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5701 of this title.

SUBCHAPTER II—EFFECTIVE DATES

§ 5110. Effective dates of awards

(a) Unless specifically provided otherwise in this chapter, the effective date of an award based on an original claim, a claim reopened after final adjudication, or a claim for increase, of compensation, dependency and indemnity compensation, or pension, shall be fixed in accordance with the facts found, but shall not be earlier than the date of receipt of application therefor.

(b)(1) The effective date of an award of disability compensation to a veteran shall be the day following the date of the veteran's discharge or release if application therefor is received within one year from such date of discharge or release.

(2) The effective date of an award of increased compensation shall be the earliest date as of which it is ascertainable that an increase in disability had occurred, if application is received within one year from such date.

(3)(A) The effective date of an award of disability pension to a veteran described in subparagraph (B) of this paragraph shall be the date of application or the date on which the veteran became permanently and totally disabled, if the veteran applies for a retroactive award within one year from such date, whichever is to the advantage of the veteran.

(B) A veteran referred to in subparagraph (A) of this paragraph is a veteran who is permanently and totally disabled and who is prevented by a disability from applying for disability pension for a period of at least 30 days beginning on the date on which the veteran became permanently and totally disabled.

(c) The effective date of an award of disability compensation by reason of section 1151 of this title shall be the date such injury or aggravation was suffered if an application therefor is received within one year from such date.

(d)(1) The effective date of an award of death compensation or dependency and indemnity compensation for which application is received within one year from the date of death shall be the first day of the month in which the death occurred.

(2) The effective date of an award of death pension for which application is received within 45 days from the date of death shall be the first day of the month in which the death occurred.

(e)(1) Except as provided in paragraph (2) of this subsection, the effective date of an award of dependency and indemnity compensation to a child shall be the first day of the month in which the child's entitlement arose if application therefor is received within one year from such date.

(2) In the case of a child who is eighteen years of age or over and who immediately before becoming eighteen years of age was counted under section 1311(b) of this title in determining the

amount of the dependency and indemnity compensation of a surviving spouse, the effective date of an award of dependency and indemnity compensation to such child shall be the date the child attains the age of eighteen years if application therefor is received within one year from such date.

(f) An award of additional compensation on account of dependents based on the establishment of a disability rating in the percentage evaluation specified by law for the purpose shall be payable from the effective date of such rating; but only if proof of dependents is received within one year from the date of notification of such rating action.

(g) Subject to the provisions of section 5101 of this title, where compensation, dependency and indemnity compensation, or pension is awarded or increased pursuant to any Act or administrative issue, the effective date of such award or increase shall be fixed in accordance with the facts found but shall not be earlier than the effective date of the Act or administrative issue. In no event shall such award or increase be retroactive for more than one year from the date of application therefor or the date of administrative determination of entitlement, whichever is earlier.

(h) Where an award of pension has been deferred or pension has been awarded at a rate based on anticipated income for a year and the claimant later establishes that income for that year was at a rate warranting entitlement or increased entitlement, the effective date of such entitlement or increase shall be fixed in accordance with the facts found if satisfactory evidence is received before the expiration of the next calendar year.

(i) Whenever any disallowed claim is reopened and thereafter allowed on the basis of new and material evidence resulting from the correction of the military records of the proper service department under section 1552 of title 10, or the change, correction, or modification of a discharge or dismissal under section 1553 of title 10, or from other corrective action by competent authority, the effective date of commencement of the benefits so awarded shall be the date on which an application was filed for correction of the military record or for the change, modification, or correction of a discharge or dismissal, as the case may be, or the date such disallowed claim was filed, whichever date is the later, but in no event shall such award of benefits be retroactive for more than one year from the date of reopening of such disallowed claim. This subsection shall not apply to any application or claim for Government life insurance benefits.

(j) Where a report or a finding of death of any person in the active military, naval, or air service has been made by the Secretary concerned, the effective date of an award of death compensation, dependency and indemnity compensation, or death pension, as applicable, shall be the first day of the month fixed by that Secretary as the month of death in such report or finding, if application therefor is received within one year from the date such report or finding has been made; however, such benefits shall not be payable to any person for any period for which such person has received, or was entitled

to receive, an allowance, allotment, or service pay of the deceased.

(k) The effective date of the award of benefits to a surviving spouse or of an award or increase of benefits based on recognition of a child, upon annulment of a marriage shall be the date the judicial decree of annulment becomes final if a claim therefor is filed within one year from the date the judicial decree of annulment becomes final; in all other cases the effective date shall be the date the claim is filed.

(l) The effective date of an award of benefits to a surviving spouse based upon a termination of a remarriage by death or divorce, or of an award or increase of benefits based on recognition of a child upon termination of the child's marriage by death or divorce, shall be the date of death or the date the judicial decree or divorce becomes final, if an application therefor is received within one year from such termination.

[(m) Repealed. Pub. L. 103-446, title XII, § 1201(i)(8), Nov. 2, 1994, 108 Stat. 4688.]

(n) The effective date of the award of any benefit or any increase therein by reason of marriage or the birth or adoption of a child shall be the date of such event if proof of such event is received by the Secretary within one year from the date of the marriage, birth, or adoption.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1226, § 3010; Pub. L. 87-674, § 3, Sept. 19, 1962, 76 Stat. 558; Pub. L. 87-825, § 1, Oct. 15, 1962, 76 Stat. 948; Pub. L. 91-376, § 7, Aug. 12, 1970, 84 Stat. 790; Pub. L. 91-584, § 13, Dec. 24, 1970, 84 Stat. 1578; Pub. L. 93-177, § 6(a), Dec. 6, 1973, 87 Stat. 696; Pub. L. 93-527, § 9(b), Dec. 21, 1974, 88 Stat. 1705; Pub. L. 94-71, title I, § 104, Aug. 5, 1975, 89 Stat. 396; Pub. L. 97-66, title II, § 204(b), Oct. 17, 1981, 95 Stat. 1029; Pub. L. 98-160, title VII, § 703(1), Nov. 21, 1983, 97 Stat. 1010; Pub. L. 98-223, title II, § 213(3), Mar. 2, 1984, 98 Stat. 46; Pub. L. 98-369, div. B, title V, § 2501(a), July 18, 1984, 98 Stat. 1116; Pub. L. 99-576, title VII, § 701(63), Oct. 28, 1986, 100 Stat. 3296; renumbered § 5110 and amended Pub. L. 102-40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, §§ 4(a)(2)(A)(vi), (b)(4)(B), 5(c)(1), Aug. 6, 1991, 105 Stat. 403, 405, 406; Pub. L. 103-446, title XII, § 1201(i)(8), Nov. 2, 1994, 108 Stat. 4688.)

AMENDMENTS

1994—Subsec. (m). Pub. L. 103-446 struck out subsec. (m) which read as follows: "The effective date of an award of benefits to a surviving spouse based upon termination of actions described in section 103(d)(3) of this title shall not be earlier than the date of receipt of application therefor filed after termination of such actions and after December 31, 1970."

1991—Pub. L. 102-40, § 402(b)(1), renumbered section 3010 of this title as this section.

Subsec. (c). Pub. L. 102-83, § 5(c)(1), substituted "1151" for "351".

Subsec. (e)(2). Pub. L. 102-83, § 5(c)(1), substituted "1311(b)" for "411(b)".

Subsec. (g). Pub. L. 102-40, § 402(d)(1), substituted "5101" for "3001".

Subsec. (j). Pub. L. 102-83, § 4(b)(4)(B), substituted "that Secretary" for "the Secretary" after "month fixed by".

Subsec. (n). Pub. L. 102-83, § 4(a)(2)(A)(vi), substituted "Secretary" for "Veterans' Administration".

1986—Subsec. (b)(1). Pub. L. 99-576 substituted "the veteran's" for "his".

1984—Subsec. (b)(3)(A). Pub. L. 98-369, § 2501(a)(1), designated existing provisions as subpar. (A), inserted "de-

scribed in subparagraph (B) of this paragraph" after "to a veteran", substituted "the veteran applies for a retroactive award" for "an application therefor is received", and added subpar. (B).

Subsec. (d). Pub. L. 98-369, § 2501(a)(2), designated existing provisions as par. (1), substituted "dependency and indemnity compensation for which application is received" for "dependency and indemnity compensation, or death pension, where application is received", and added par. (2).

Subsec. (m). Pub. L. 98-223 substituted "section" for "subsection".

1983—Subsecs. (k) to (m). Pub. L. 98-160 substituted "surviving spouse" for "widow" wherever appearing.

1981—Subsec. (e). Pub. L. 97-66 designated existing provisions as par. (1), substituted "Except as provided in paragraph (2) of this subsection, the" for "The", and added par. (2).

1975—Subsec. (b)(2), (3). Pub. L. 94-71 added par. (2) and redesignated former par. (2) as (3).

1974—Subsec. (l). Pub. L. 93-527 inserted provisions relating to an award or increase of benefits based on recognition of a child upon termination of the child's marriage by death or divorce.

1973—Subsec. (b). Pub. L. 93-177 designated existing provisions as par. (1) and added par. (2).

1970—Subsecs. (l), (m). Pub. L. 91-376 added subsecs. (l) and (m).

Subsec. (n). Pub. L. 91-584 added subsec. (n).

1962—Subsec. (a). Pub. L. 87-825 inserted "based on an original claim, a claim reopened after final adjudication, or a claim for increase".

Subsec. (c). Pub. L. 87-825 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 87-825 redesignated former subsec. (c) as (d) and substituted first day of month in which the death occurred, for the day after the day of death, as the effective date. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 87-825 redesignated former subsec. (d) as (e), substituted "first day of the month" for "date", and struck out "the entitlement arose" after "from such date." Former subsec. (e) redesignated (j).

Subsec. (f). Pub. L. 87-825 added subsec. (f). A prior subsec. (f) added by Pub. L. 87-674 was redesignated (k) by Pub. L. 87-825.

Subsecs. (g) to (i). Pub. L. 87-825 added subsecs. (g) to (i).

Subsec. (j). Pub. L. 87-825 redesignated former subsec. (e) as (j), and substituted "first day of the month" for "day after the date", and "month of death" for "date of death".

Subsec. (k). Pub. L. 87-825 redesignated former subsec. (f), added by Pub. L. 87-674, as (k).

EFFECTIVE DATE OF 1984 AMENDMENT

Section 2501(b) of Pub. L. 98-369 provided that: "The amendments made by subsection (a)(1) [amending this section] and the provisions of paragraph (2) of section 3010(d) [now 5110(d)] of title 38, United States Code, as added by subsection (a)(2), shall take effect with respect to applications that are first received after September 30, 1984, for benefits under chapter 15 of title 38, United States Code."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-66 effective Oct. 1, 1981, see section 701(a) of Pub. L. 97-66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-71 effective Aug. 1, 1975, see section 301 of Pub. L. 94-71, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-527 effective Jan. 1, 1975, see section 10 of Pub. L. 93-527, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 6(b) of Pub. L. 93-177 provided that: "Subsection (a) of this section [amending this section] shall apply to applications filed after its effective date [Jan. 1, 1974], but in no event shall an award made thereunder be effective prior to such effective date."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-376 effective Jan. 1, 1971, see section 9 of Pub. L. 91-376, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-825 effective first day of second calendar month which begins after Oct. 15, 1962, see section 7 of Pub. L. 87-825, set out as a note under section 110 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5111, 5310, 6103 of this title.

§ 5111. Commencement of period of payment

(a) Notwithstanding section 5110 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension may not be made to an individual for any period before the first day of the calendar month following the month in which the award or increased award became effective as provided under section 5110 of this title or such other provision of law.

(b)(1) Except as provided in paragraph (2) of this subsection, during the period between the effective date of an award or increased award as provided under section 5110 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Secretary.

(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such pay in accordance with section 5305 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period before such effective date.

(c)(1) This section shall apply to payments made pursuant to section 5310 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received, but for such veteran's death, for the month in which such veteran's death occurred.

(2) In the case of a temporary increase in compensation for hospitalization or treatment where such hospitalization or treatment commences and terminates within the same calendar month, the period of payment shall commence on the first day of such month.

(d) For the purposes of this section, the term "award or increased award" means—

(1) an original or reopened award; or

(2) an award that is increased because of an added dependent, increase in disability or disability rating, or reduction in income.

(Added Pub. L. 97-253, title IV, § 401(a)(1), Sept. 8, 1982, 96 Stat. 801, § 3011; amended Pub. L. 98-223, title I, § 113, Mar. 2, 1984, 98 Stat. 40; renumbered § 5111 and amended Pub. L. 102-40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, § 4(a)(1), Aug. 6, 1991, 105 Stat. 403.)

AMENDMENTS

1991—Pub. L. 102-40, § 402(b)(1), renumbered section 3011 of this title as this section.

Subsec. (a). Pub. L. 102-40, § 402(d)(1), substituted "5110" for "3010" in two places.

Subsec. (b)(1). Pub. L. 102-83 substituted "administered by the Secretary" for "administered by the Veterans' Administration".

Pub. L. 102-40, § 402(d)(1), substituted "5110" for "3010".

Subsec. (b)(2). Pub. L. 102-40, § 402(d)(1), substituted "5305" for "3105".

Subsec. (c)(1). Pub. L. 102-40, § 402(d)(1), substituted "5310" for "3110".

1984—Subsec. (c). Pub. L. 98-223 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-223 effective Oct. 1, 1983, see section 114 of Pub. L. 98-223, set out as a note under section 1112 of this title.

EFFECTIVE DATE

Section 401(b) of Pub. L. 97-253 provided that: "Section 3011 [now 5111] of title 38, United States Code, as added by subsection (a), shall apply to awards and increased awards the effective dates of which are after September 30, 1982."

§ 5112. Effective dates of reductions and discontinuances

(a) Except as otherwise specified in this section, the effective date of reduction or discontinuance of compensation, dependency and indemnity compensation, or pension shall be fixed in accordance with the facts found.

(b) The effective date of a reduction or discontinuance of compensation, dependency and indemnity compensation, or pension—

(1) by reason of marriage or remarriage, or death of a payee shall be the last day of the month before such marriage, remarriage, or death occurs;

(2) by reason of marriage, annulment, divorce, or death of a dependent of a payee shall be the last day of the month in which such marriage, annulment, divorce, or death occurs;

(3) by reason of receipt of active service pay or retirement pay shall be the day before the date such pay began;

(4) by reason of—

(A) change in income shall (except as provided in section 5312 of this title) be the last day of the month in which the change occurred; and

(B) change in corpus of estate shall be the last day of the calendar year in which the change occurred;

(5) by reason of a change in disability or employability of a veteran in receipt of pension

shall be the last day of the month in which discontinuance of the award is approved;

(6) by reason of change in law or administrative issue, change in interpretation of a law or administrative issue, or, for compensation purposes, a change in service-connected or employability status or change in physical condition shall be the last day of the month following sixty days from the date of notice to the payee (at the payee's last address of record) of the reduction or discontinuance;

(7) by reason of the discontinuance of school attendance of a payee or a dependent of a payee shall be the last day of the month in which such discontinuance occurred;

(8) by reason of termination of a temporary increase in compensation for hospitalization or treatment shall be the last day of the month in which the hospital discharge or termination of treatment occurred, whichever is earlier;

(9) by reason of an erroneous award based on an act of commission or omission by the beneficiary, or with the beneficiary's knowledge, shall be the effective date of the award; and

(10) by reason of an erroneous award based solely on administrative error or error in judgment shall be the date of last payment.

(c) The effective date of a discontinuance under section 5503(b)(1)(A) of this title of pension, compensation, or emergency officers' retirement pay by reason of hospital treatment or institutional or domiciliary care shall be the last day of the first month of such treatment or care during which the value of the veteran's estate, as determined under such section, equals or exceeds \$1,500.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1227, § 3012; Pub. L. 87-825, § 2, Oct. 15, 1962, 76 Stat. 949; Pub. L. 89-730, § 3, Nov. 2, 1966, 80 Stat. 1159; Pub. L. 90-275, § 5, Mar. 28, 1968, 82 Stat. 68; Pub. L. 92-198, § 3, Dec. 15, 1971, 85 Stat. 664; Pub. L. 94-433, title IV, § 402, Sept. 30, 1976, 90 Stat. 1378; Pub. L. 95-588, title III, § 303, Nov. 4, 1978, 92 Stat. 2506; Pub. L. 97-253, title IV, § 402(a), Sept. 8, 1982, 96 Stat. 802; Pub. L. 99-576, title V, § 503, title VII, § 701(64), Oct. 28, 1986, 100 Stat. 3286, 3296; renumbered § 5112 and amended Pub. L. 102-40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239.)

AMENDMENTS

1991—Pub. L. 102-40, § 402(b)(1), renumbered section 3012 of this title as this section.

Subsec. (b)(4)(A). Pub. L. 102-40, § 402(d)(1), substituted "5312" for "3112".

Subsec. (c). Pub. L. 102-40, § 402(d)(1), substituted "5503(b)(1)(A)" for "3203(b)(1)(A)".

1986—Subsec. (b)(6). Pub. L. 99-576, § 701(64), substituted "the payee's" for "his".

Subsec. (c). Pub. L. 99-576, § 503, added subsec. (c).

1982—Subsec. (b)(2). Pub. L. 97-253 substituted "month" for "calendar year".

1978—Subsec. (b)(4). Pub. L. 95-588 restructured subsection and, as so restructured, provided that the effective date of a change in compensation by reason of a change in income would be the last day of the month in which the change occurred rather than the last day in the calendar year in which such change in income occurred.

1976—Subsec. (b)(2). Pub. L. 94-433, § 402(1), inserted "annulment," before "divorce" in two places.

Subsec. (b)(9). Pub. L. 94-433, § 402(2), substituted "the beneficiary's" for "his" before "knowledge".

1971—Subsec. (b)(2). Pub. L. 92-198 substituted "last day of the calendar year" for "last day of the month".

1968—Subsec. (b)(4). Pub. L. 90-275 struck out exception which provided that where change in income is due to an increase in payments under a public or private retirement plan the effective date of the resulting reduction or discontinuance shall be the last day of the calendar year in which the change occurred.

1966—Subsec. (b)(4). Pub. L. 89-730 provided for exception that where change in income is due to an increase in payments under a public or private retirement plan the effective date of the resulting reduction or discontinuance shall be the last day of the calendar year in which the change occurred.

1962—Subsecs. (b), (c). Pub. L. 87-825 redesignated subsec. (c) as (b), amended such subsec. generally, and among other changes, inserted provisions relating to the marriage, divorce, or death of a dependent of a payee, the change in income or corpus of an estate, the change in disability or employability of a veteran, the change in law or administrative issue of service-connected or employability status or physical condition, the discontinuance of school attendance, the termination of a temporary increase in compensation for hospitalization or treatment, an erroneous award based on an act or omission of the beneficiary or with his knowledge, and an erroneous award based solely on administrative error or error in judgment, changed the effective date by reason of death, or by reason of marriage or remarriage, from the date of death, or the day before the date of marriage or remarriage, respectively, to the last day of the month before such death, marriage or remarriage occurs, and eliminated provisions relating to attaining age 18 or 21, as applicable, and to fraud on the part of the beneficiary or with his knowledge. Former subsec. (b), which related to the effective date of a reduction or discontinuance in rates, of a compensation, dependency and indemnity compensation, or a pension award, was struck out.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 402(b) of Pub. L. 97-253 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to any marriage, annulment, divorce, or death that occurs after September 30, 1982."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-588 effective Jan. 1, 1979, see section 401 of Pub. L. 95-588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-198 effective Jan. 1, 1972, see section 6 of Pub. L. 92-198, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-275 effective first day of first calendar month following month of initial payment of increases in monthly insurance benefits provided by Social Security Amendments of 1967, see section 6(b) of Pub. L. 90-275, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-730 effective first day of second calendar month following Nov. 2, 1966, see section 7(a) of Pub. L. 89-730, set out as a note under section 1315 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-825 effective first day of second calendar month which begins after Oct. 15, 1962,

see section 7 of Pub. L. 87-825, set out as a note under section 110 of this title.

§ 5113. Effective dates of educational benefits

(a) Except as provided in subsection (b) of this section, effective dates relating to awards under chapters 30, 31, 32, 34, and 35 of this title or chapter 106 of title 10 shall, to the extent feasible, correspond to effective dates relating to awards of disability compensation.

(b) The effective date of an adjustment of benefits under any chapter referred to in subsection (a) of this section, if made on the basis of a certification made by the veteran or person and accepted by the Secretary under section 3680(g) of this title, shall be the date of the change.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1227, § 3013; Pub. L. 89-358, § 4(p), Mar. 3, 1966, 80 Stat. 25; Pub. L. 99-576, title III, § 321(10), Oct. 28, 1986, 100 Stat. 3278; Pub. L. 100-322, title III, § 323, May 20, 1988, 102 Stat. 536; Pub. L. 101-237, title IV, § 419, Dec. 18, 1989, 103 Stat. 2087; Pub. L. 102-16, § 10(a)(9), Mar. 22, 1991, 105 Stat. 56; renumbered § 5113, Pub. L. 102-40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, § 5(c)(1), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3013 of this title as this section.

Subsec. (a). Pub. L. 102-16 inserted “or chapter 106 of title 10” after “of this title”.

Subsec. (b). Pub. L. 102-83 substituted “3680(g)” for “1780(g)”.

1989—Pub. L. 101-237 designated existing provisions as subsec. (a), substituted “Except as provided in subsection (b) of this section, effective” for “Effective”, and added subsec. (b).

1988—Pub. L. 100-322 inserted reference to chapter 32.

1986—Pub. L. 99-576 inserted reference to chapter 30.

1966—Pub. L. 89-358 substituted “34” for “33”.

SUBCHAPTER III—PAYMENT OF BENEFITS

§ 5120. Payment of benefits; delivery

(a) Monetary benefits under laws administered by the Secretary shall be paid by checks drawn, pursuant to certification by the Secretary, in such form as to protect the United States against loss, and payable by the Treasurer of the United States. Such checks shall be payable without separate vouchers or receipts except in any case in which the Secretary may consider a voucher necessary for the protection of the Government. Such checks shall be transmitted by mail to the payee thereof at the payee's last known address and, if the payee has moved and filed a regular change of address notice with the United States Postal Service, shall be forwarded to the payee. The envelope or cover of each such checks shall bear on the face thereof the following notice: “POSTMASTER: PLEASE FORWARD if addressee has moved and filed a regular change-of-address notice. If addressee is deceased, return the letter with date of death, if known.”

(b) Postmasters, delivery clerks, letter carriers, and all other postal employees are prohibited from delivering any mail addressed by the United States and containing any such check to any person whomsoever if such person has died or in the case of a surviving spouse, if the postal

employee believes that the surviving spouse has remarried (unless the mail is addressed to the surviving spouse in the name the surviving spouse has acquired by the remarriage). The preceding sentence shall apply in the case of checks in payment of benefits other than pension, compensation, dependency and indemnity compensation, and insurance, only insofar as the Secretary deems it necessary to protect the United States against loss.

(c) Whenever mail is not delivered because of the prohibition of subsection (b), such mail shall be returned forthwith by the postmaster with a statement of the reason for so doing, and if because of death or remarriage, the date thereof, if known. Checks returned under this subsection because of death or remarriage shall be canceled.

(d) Notwithstanding subsection (a) of this section, pursuant to an agreement with the Department of the Treasury under which the Secretary certifies such benefits for payment, monetary benefits under laws administered by the Secretary may be paid other than by check upon the written request of the person to whom such benefits are to be paid, if such noncheck payment is determined by the Secretary to be in the best interest of such payees and the management of monetary benefits programs by the Department.

(e) Whenever the first day of any calendar month falls on a Saturday, Sunday, or legal public holiday (as defined in section 6103 of title 5), the Secretary shall, to the maximum extent practicable, certify benefit payments for such month in such a way that such payments will be delivered by mail, or transmitted for credit to the payee's account pursuant to subsection (d) of this section, on the Friday immediately preceding such Saturday or Sunday, or in the case of a legal holiday, the weekday (other than Saturday) immediately preceding such legal public holiday, notwithstanding that such delivery or transmission of such payments is made in the same calendar month for which such payments are issued.

(f)(1) In the case of a payee who does not have a mailing address, payments of monetary benefits under laws administered by the Secretary shall be delivered under an appropriate method prescribed pursuant to paragraph (2) of this subsection.

(2) The Secretary shall prescribe an appropriate method or methods for the delivery of payments of monetary benefits under laws administered by the Secretary in cases described in paragraph (1) of this subsection. To the maximum extent practicable, such method or methods shall be designed to ensure the delivery of payments in such cases.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1227, § 3020; Pub. L. 95-117, title IV, § 402(a), (b)(1), Oct. 3, 1977, 91 Stat. 1065, 1066; Pub. L. 97-295, § 4(73), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 99-570, title XI, § 11007(a)(2), Oct. 27, 1986, 100 Stat. 3207-170; Pub. L. 99-576, title VII, § 701(65), Oct. 28, 1986, 100 Stat. 3296; renumbered § 5120, Pub. L. 102-40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, § 4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3020 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

Subsec. (b). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Subsec. (d). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration" before period at end.

Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

Subsec. (e). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Subsec. (f)(1). Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

Subsec. (f)(2). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

1986—Subsec. (a). Pub. L. 99-576, §701(65)(A), substituted "the payee's" for "his", and "the payee" for "he" and "him" in third sentence.

Subsec. (b). Pub. L. 99-576, §701(65)(B), substituted "such person" for "he", "surviving spouse" for "widow", "the surviving spouse" for "she" in two places, "to the surviving spouse" for "to her", and "by the" for "by her" in first sentence.

Subsec. (f). Pub. L. 99-570 added subsec. (f).

1982—Subsec. (a). Pub. L. 97-295 substituted "United States Postal Service" for "Post Office Department".

1977—Pub. L. 95-117, §402(b)(1), struck out "by check" after "benefits" in section catchline.

Subsecs. (d), (e). Pub. L. 95-117, §402(a), added subsecs. (d) and (e).

EFFECTIVE DATE OF 1986 AMENDMENT

Section 11007(b)(2) of Pub. L. 99-570 provided that: "The amendment made by subsection (a)(2) [amending this section] shall take effect with respect to payments made on or after October 1, 1986."

EFFECTIVE DATE OF 1977 AMENDMENT

Section 402(c) of Pub. L. 95-117 provided that: "The amendments made by this section [amending this section] shall be effective on the date of enactment of this Act [Oct. 3, 1977]."

§ 5121. Payment of certain accrued benefits upon death of a beneficiary

(a) Except as provided in sections 3329 and 3330 of title 31, periodic monetary benefits (other than insurance and servicemen's indemnity) under laws administered by the Secretary to which an individual was entitled at death under existing ratings or decisions, or those based on evidence in the file at date of death (hereafter in this section and section 5122 of this title referred to as "accrued benefits") and due and unpaid for a period not to exceed one year, shall, upon the death of such individual be paid as follows:

(1) Upon the death of a person receiving an apportioned share of benefits payable to a veteran, all or any part of such benefits to the veteran or to any other dependent or dependents of the veteran, as may be determined by the Secretary;

(2) Upon the death of a veteran, to the living person first listed below:

(A) The veteran's spouse;

(B) The veteran's children (in equal shares);

(C) The veteran's dependent parents (in equal shares);

(3) Upon the death of a surviving spouse or remarried surviving spouse, to the children of the deceased veteran;

(4) Upon the death of a child, to the surviving children of the veteran who are entitled to death compensation, dependency and indemnity compensation, or death pension; and

(5) In all other cases, only so much of the accrued benefits may be paid as may be necessary to reimburse the person who bore the expense of last sickness and burial.

(b) No part of any accrued benefits shall be used to reimburse any political subdivision of the United States for expenses incurred in the last sickness or burial of any beneficiary.

(c) Applications for accrued benefits must be filed within one year after the date of death. If a claimant's application is incomplete at the time it is originally submitted, the Secretary shall notify the claimant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no accrued benefits may be paid.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1228, §3021; Pub. L. 92-328, title I, §105(b), June 30, 1972, 86 Stat. 395; Pub. L. 97-258, §3(k)(4), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 98-160, title VII, §703(1), Nov. 21, 1983, 97 Stat. 1010; Pub. L. 99-576, title VII, §701(66), Oct. 28, 1986, 100 Stat. 3296; renumbered §5121 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, §4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

AMENDMENTS

1991—Pub. L. 102-40, §402(b)(1), renumbered section 3021 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in par. (1).

Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration" in introductory provisions.

Pub. L. 102-40, §402(d)(1), substituted "5122" for "3022" in introductory provisions.

Subsec. (c). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

1986—Subsec. (a). Pub. L. 99-576, §701(66)(A), struck out "his" after "entitled at".

Subsec. (a)(2)(A) to (C). Pub. L. 99-576, §701(66)(B), substituted "The veteran's" for "His".

1983—Subsec. (a)(3). Pub. L. 98-160 substituted "surviving spouse" for "widow" in two places.

1982—Subsec. (a). Pub. L. 97-258 substituted "sections 3329 and 3330 of title 31" for "sections 123-128 of title 31".

1972—Subsec. (a). Pub. L. 92-328 struck out reference to section 3203(a)(2)(A) of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-328 effective first day of second calendar month which begins after June 30, 1972, see section 301(a) of Pub. L. 92-328, set out as a note under section 1114 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5122 of this title.

§ 5122. Cancellation of checks mailed to deceased payees

A check received by a payee in payment of accrued benefits shall, if the payee died on or after the last day of the period covered by the check, be returned to the issuing office and canceled, unless negotiated by the payee or the duly appointed representative of the payee's estate. The amount represented by such check, or any amount recovered by reason of improper negotiation of any such check, shall be payable in the manner provided in section 5121 of this title, without regard to section 5121(c) of this title. Any amount not paid in the manner provided in section 5121 of this title shall be paid upon settlement by the General Accounting Office to the estate of the deceased payee unless the estate will escheat.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1229, § 3022; Pub. L. 99-576, title VII, § 701(67), Oct. 28, 1986, 100 Stat. 3296; renumbered § 5122 and amended Pub. L. 102-40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239.)

AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3022 of this title as this section and substituted “5121” for “3021” in two places and “5121(c)” for “3021(c)”.

1986—Pub. L. 99-576 substituted “the payee's” for “his” in first sentence.

TRANSFER OF FUNCTIONS

Functions of Comptroller General under this section transferred, effective June 30, 1996, to Director of Office of Management and Budget, see section 211 of Pub. L. 104-53, set out as a note under section 501 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5121 of this title.

§ 5123. Rounding down of pension rates

The monthly or other periodic rate of pension payable to an individual under section 1521, 1541, or 1542 of this title or under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588), if not a multiple of \$1, shall be rounded down to the nearest dollar.

(Added Pub. L. 97-253, title IV, § 403(a)(1), Sept. 8, 1982, 96 Stat. 802, § 3023; renumbered § 5123, Pub. L. 102-40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102-83, § 5(c)(1), Aug. 6, 1991, 105 Stat. 406.)

REFERENCES IN TEXT

Section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588), referred to in text, is section 306(a) of Pub. L. 95-588, title III, Nov. 4, 1978, 92 Stat. 2508, which is set out as a note under section 1521 of this title.

PRIOR PROVISIONS

Prior sections 5201 to 5228 were renumbered sections 8501 to 8528 of this title, respectively.

AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3023 of this title as this section.

Pub. L. 102-83 substituted “1521, 1541, or 1542” for “521, 541, or 542”.

EFFECTIVE DATE

Section 403(b) of Pub. L. 97-253, as amended by Pub. L. 98-21, title I, § 111(e), Apr. 20, 1983, 97 Stat. 73; Pub.

L. 98-369, div. B, title VI, § 2662(j), July 18, 1984, 98 Stat. 1160, provided that:

“(1) Except as provided in paragraph (2), the amendment made by subsection (a)(1) [enacting this section] shall apply with respect to amounts payable for periods beginning after May 31, 1983.

“(2) In the cases of individuals to whom pension is payable under sections 521, 541, and 542 [now 1521, 1541, and 1542] of title 38, United States Code, the amendment made by subsection (a)(1) shall take effect on the first day after May 31, 1983, that an increase is made in maximum annual rates of pension pursuant to section 3112 [now 5312] of title 38, United States Code.”

§ 5124. Acceptance of claimant's statement as proof of relationship

(a) For purposes of benefits under laws administered by the Secretary, the Secretary may accept the written statement of a claimant as proof of the existence of any relationship specified in subsection (b) for the purpose of acting on such individual's claim for benefits.

(b) Subsection (a) applies to proof of the existence of any of the following relationships between a claimant and another person:

- (1) Marriage.
- (2) Dissolution of a marriage.
- (3) Birth of a child.
- (4) Death of any family member.

(c) The Secretary may require the submission of documentation in support of the claimant's statement if—

- (1) the claimant does not reside within a State;
- (2) the statement on its face raises a question as to its validity;
- (3) there is conflicting information of record; or
- (4) there is reasonable indication, in the statement or otherwise, of fraud or misrepresentation.

(Added Pub. L. 103-446, title III, § 301(a), Nov. 2, 1994, 108 Stat. 4657.)

§ 5125. Acceptance of reports of private physician examinations

For purposes of establishing any claim for benefits under chapter 11 or 15 of this title, a report of a medical examination administered by a private physician that is provided by a claimant in support of a claim for benefits under that chapter may be accepted without a requirement for confirmation by an examination by a physician employed by the Veterans Health Administration if the report is sufficiently complete to be adequate for the purpose of adjudicating such claim.

(Added Pub. L. 103-446, title III, § 301(b), Nov. 2, 1994, 108 Stat. 4658.)

CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

Sec.	
5301.	Nonassignability and exempt status of benefits.
5302.	Waiver of recovery of claims by the United States.
5303.	Certain bars to benefits.
5303A.	Minimum active-duty service requirement.
5304.	Prohibition against duplication of benefits.
5305.	Waiver of retired pay.